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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/527,398	03/16/2000	Maximino Aguilar	AUS000147US1	1549

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EXAMINER
SURYAWANSHI, SURESH

ART UNIT	PAPER NUMBER
2185	

DATE MAILED: 11/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _16 March 2000_ .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-38_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-38_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _01 August 2000_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)   4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5)☐ Notice of Informal Patent Application (PTO-152)

3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .   6)☐ Other: .

DETAILED ACTION

1.   Claims 1-38 are presented for examination.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) do not apply to the examination of this application as the application being examined

was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C.

122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment

by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3.   Claims 1-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Godse (US

Patent no 6,202,091 B1).

4.   As per claim 1, 10, 23, 32, 37, and 38, Godse teaches that the boot initiation element is

capable of verifying the vintage of any file that direct the execution of the boot-up procedure

[col. 4, lines 27-32]. If there exists a new version of the file either on a local resource or on the

network, the file will be downloaded and it will replace the old one [col. 4, lines 39-51; col. 3,

lines 20-35].

5.   As per claims 2, 20, and 24, Godse teaches that the storage device is a non-volatile

random access memory [col. 5, lines 54-55].

6.   As per claims 3, 12, 25, and 34, Godse teaches that the operating system is stored on the

storage device [inherent in the system].

7.   As per claims 4 and 26, Godse teaches that the storage device is a removable storage

device locally connected to the data processing system [inherent in the system as it mentions

about local resource that may contain a hard disk drive, a floppy drive, a cd-rom drive, etc.; col.

3, lines 27-28].

8.   As per claims 5 and 27, Godse teaches that loading the operating system using the current

boot code if the updated boot code is absent [inherent in the system as loading of the operating

system does not start until the boot-up procedure completes; col. 4, line 52].

9.   As per claims 6 and 28, Godse teaches that replacing the current boot code with the

updated boot code prior to loading the operating system [inherent in the system as loading of the

operating system does not start until the boot-up procedure completes; col. 4, lines 39-52].

10.   As per claims 7 and 29, Godse teaches that

        Restarting the data processing system using the new current boot code [col. 8, lines 23-

25; the system will restart booting with new code]; and

        Loading the operating system using the new current boot code [inherent in the system as

loading of the operating system does not start until the boot-up procedure completes; col. 4, line

52].

11.   As per claims 8 and 30, Godse teaches that the updated boot code is present if a boot

code is present on the storage device in which the boot code is a later version of the current boot

code [inherent in the system].

12.   As per claims 9 and 31, Godse teaches that the updated boot code is present if a boot

code is located on the storage device [inherent in the system].

13.   As per claims 11 and 33, Godse teaches that searching a local storage device for the

updated boot code prior to loading the operating system [inherent in the system as a local

resource will be checked for the latest version of the code; col. 3, lines 25-28].

14.   As per claims 13 and 35, Godse teaches that searching a storage device located remotely

[inherent in the system as the network will be checked for the latest version of the code; col. 3,

lines 25-28].

15.   As per claims 14 and 36, Godse teaches that the storage device is located on a server

[inherent in the system as the network will be checked for the later version of the code and a

server will be on the network; col. 3, lines 25-28].

16.   As per claim 15, Godse teaches that a data processing system comprising:

A bus [inherent in the system];

A first storage device connected to the bus [inherent in the system having a non-volatile

RAM or a hard-disk];

A second storage device connected to the bus [inherent in the system having a non-

volatile RAM or a hard-disk];

A processor unit connected to the bus [inherent in the system; col. 5, lines 56-62]; and

Godse teaches that the boot initiation element is capable of verifying the vintage of any

file that direct the execution of the boot-up procedure [col. 4, lines 27-32]. If there exists a new
version of the file either on a local resource or on the network, the file will be downloaded and it
will replace the old one [col. 4, lines 39-51; col. 3, lines 20-35].

17.   As per claim 16, Godse teaches that updating of the current boot code instructions is
performed by replacing the current boot code instructions in the first storage device with the
updated boot code instructions in the second storage device [inherent in the system as the latest
version will be downloaded from a second storage device located locally or on the network].

18.   As per claim 17, Godse teaches that the processor unit loads the operating system using
the current boot code instructions if updated boot code instructions are absent on the second
storage device [inherent in the system as loading of the operating system does not start until the
boot-up procedure completes; col. 4, line 52].

19.   As per claim 18, Godse teaches that the updated boot code instructions are present if any
boot code instructions are present on the second storage device [inherent in the system as the
latest version will be searched on second storage device located locally or remotely].

20.   As per claim 19, Godse teaches that the updated boot code instructions are present if a
newer version of the current boot code instructions is present [inherent in the system].

21.   As per claim 21, Godse teaches that the second storage device is one of a removable

non-volatile random access memory, a hard disk drive, a floppy disk, a CD-ROM, and a DVD-

ROM [inherent in the system as these are well known storage devices].

22.   As per claim 22, Godse teaches that the data processing system is a laptop computer, a

palmtop computer, a personal computer, and a personal digital assistant [inherent in the system
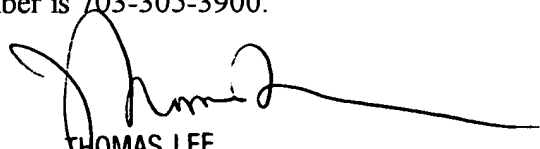
as these are well known computing devices].

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Suresh K Suryawanshi whose telephone number is 703-305-

3990. The examiner can normally be reached on 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Thomas C. Lee can be reached on 703-305-9717. The fax phone numbers for the

organization where this application or proceeding is assigned are 703-746-7239 for regular

communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is 703-305-3900.

sks
October 24, 2002

THOMAS LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100